*Previous references*
epi 49-41-1
epi 50-41-1
*Later references.*

PRESERVED

# Office of the Secretary to the Representative Assembly and Legislative Council

September 1942

SUBJECT.

The Special criminal courts Act, 1942 (XXV of 1942)
The penalties (Enhancement) Act, 1942 (XXV of 1942)

To,
The compiler, Mysore gazette
Order No RL 97 Legis 3-42-1 dated 22
" " RL 98 Legis 4-42-1 dated 22

Directs the publication of the Acts noted a

General and Revenue
Secretariat
R. A. & L. C.

Serial No.

From The Secretary to the Hon'ble the Resident in Mysore,
letter No. F 9-42/W dated 13th Jan 1942
Referring to the Gazette of India (Extra-ordinary) dated the 2nd Jan 1942, promulgating the Special Criminal Courts Ordinance, 1942, and the penalties (Enhancement) Ordinance 1942

Submitted

A copy* of the Gazette of India (Extra-ordinary) promulgating the Ordinances mentioned above, is put up for perusal and orders

16-1-42 16.1.42

*Ordinance No. II of 1942 is the Special Criminal Courts Ordinance and provides for the constitution of three classes of Special Courts, namely:-

(i) Special Judges;

(ii) Special Magistrates;

(iii) Summary Courts.

1. Special Judges:-

Any person who has acted for a period of not less than 2 years as a Sessions Judge or an Assistant Sessions Judge may be appointed a Special Judge. He may try any offences or classes of offences which the Government or an officer authorised by the Government

may direct. He may impose any sentence under law. The procedure for the trial of warrant cases under the Criminal Procedure Code will apply, but he may take cognizance of an offence without the accused being committed and shall ordinarily record only a memorandum of the substance of the evidence. In certain cases a review by a ~~person~~ Judge of the High Court nominated by the Government, of the proceedings of the Special Judge is permitted.

2. Special Magistrates:-

Any Presidency Magistrate or Magistrate of the first class who has been exercising such powers for a period of two years may be appointed as a Special Magistrate. He may try all cases other than those which involve offences punishable with death as the Government or an officer appointed by the Government may direct. The procedure is the same as that to be followed by a Special Judge. He may pass any sentence except a sentence of death or transportation or imprisonment exceeding 7 years. In certain cases an appeal will lie to the Special Judge.

3. Summary Courts:-

Any Magistrate may be appointed by the Government to preside over a Summary Court. It may try such offences as a District Magistrate or an office of the Government authorised by the District Magistrate

Serial No.

may direct. The Court shall only try cases of offences punishable with imprisonment for a term less than 2 years. The procedure laid down in the Criminal Procedure Code for the trial of warrant cases will apply, but only a memorandum of the ~~offence~~ evidence need be recorded. A summary Court may pass any sentence which may be passed by the Magistrate of First Class. In certain cases an appeal is made to lie in a Presidency Town to the Chief Presidency Magistrate and in other cases, to the Special Magistrate or a Magistrat of the First Class appointed by the District Magistra of the District.

Certain special powers are given to these Courts; for example, dispensing with the attendance of refractory accused, excluding the public from the Court, making use of the statements recorded by a Magistrate where such person is dead or cannot be fou the recovery of fine by an issue of warrant ~~by~~ for the attachment ~~of~~ and sale of property, etc.

A similar enactment may perhaps, with advantage be promulgated in Mysore, It is only an enabling measure. Until such time as the courts are constituted by the Government, the Act will not apply.

Ordinance No.III of 1942 is the Penalties (Enhancement) Ordinance 1942. It provides for

cases. Committing theft in any premises which has been damaged by war operations or vacated by reason of enemy attack or in consequence of directions given for purposes of meeting any attack by the enemy, etc., is made punishable with death or with rigorous imprisonment for a term which may extend to 10 years or with whipping. Offences of grievous hurt or mischief or sabotage under the Defence of India Rules are liable to punishment with death or with whipping. The offence of rape is also liable to punishment with death. Rioting or obstructing a public servant in the discharge of his public functions is liable to punishment with whipping. These enhanced penalties are however made applicable only by the issue of a Notification by the Government to that effect.

It is perhaps desirable to have a similar Enactment in Mysore. A Notification for bringing the substantive provisions into force could be issued when an emergency arises which necessitates such a step.

Draft Bills on the lines of British Indian Ordinances are put up for consideration. These could, in the first instance, perhaps issue as an emergency measure and if necessary, thereafter as permanent Enactments.

In another (Confidential) file

Special Criminal Courts Act and
Penalties Enhancement Act

General and Revenue Secretariat
R. A. & L. C.

File No. 618/41 of 194 App. F. III-2

Serial No.

JAN 17 1942
7340

WAR'S OFFICE
19 JAN 1942
10 6229

SECY. LAW DEPT.
17 JAN 1942
GOVT OF MYSORE

C.B. 2140. The question of undertaking legislation of the kind now under consideration, is stated to have been the subject of discussion between the Govt. and the Residency and it has been agreed that legislation should be undertaken on the lines of action taken by the Government of India.

Secy
R.A. & L.C.
17.1.42

BKR
17.1.42

Law Secy)
May be approved.

May be issued as an emergency measure and in the first instance and if necessary, thereafter as permanent enactment.

Minister for Law & Dewan)
Hm
17.1.42.

BKR
17.1.42

17/1/42

NLL
19/1/42

This is a Council matter and may be disposed of by circulation.
Dewan)
Hm
20.1.42

BKR
20.1.42

NLL
21/1/42

For favour of circulation
Chief Secy.)
Hm
'42.

BKR
22.1.42

ecial Criminal Courts ordinance and the Penalties Enhancement ordinance.

618/M of 194 .

General and Revenue Secretariat
R. A. & L. C

Serial No.

A. & D.N. is put up for approval

29.1.42

Secy (RA&Re)

BKR 29.1.42

Law Secy)
D. J. N. submitted

Minister (Fin & Rev)

Hm 29.1.42

29.1.42 BKR 29.1.42

S. N. submitted

Hm 31.1.42

BKR 2.2.42

DEWAN'S OFFICE
2 FEB 1942
No. 6158

SECY. LAW DEPT.
908
29 JAN 1942
GOVT OF MYSORE

4340
30.1.42

Fair D.N. submitted (in duplicate) is placed below.

31/1

**For Disposal by Circulation.** **No. C. 639**

## GENERAL AND REVENUE SECRETARIAT

**Council Matter.**

*Subject*

Special Criminal Courts (Emergency) Act, 1942.

*Circulated to the Council of Ministers.*

By Order,

*Chief Secretary to Government.*

22nd January 1942

**Minister for Finance and Revenue.** 25.1

**Minister for Law.** (Seen)

**Minister for Education.** (On deputation)

**Minister for Local Self-Government and Public Health.** (On deputation)

Law Secy. With Compliments

26/1/42

26.1.42

26.1.42

FINAL NOTE BY THE MINISTER FOR FINANCE AND REVENUE.

Subject:— The Special Criminal Courts (Emergency) Act, 1942, and the Penalties Enhancement (Emergency) Act, 1942.

On the 2nd of January 1942 two Ordinances have been promulgated in British India; Ordinance No. II of 1942, the Special Criminal Courts Ordinance, 1942, and Ordinance No. III of 1942, the Penalties Enhancement Ordinance, 1942.

The former provides for the setting up of three classes of Special Criminal Courts. A speedy procedure has been provided for trial in these Courts and special jurisdiction is also conferred on them.

Ordinance No. III of 1942, the Penalties Enhancement Ordinance, 1942, provides for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences. Such a step is intended to prevent theft and allied offences during war operations and times of panic by providing for very deterrent punishment like death, etc.

It is considered desirable to have similar legislation in Mysore also. Until the Special Courts are constituted in the one case and until the provisions of the Act are brought into force in the other, the Acts do not become operative. Both these Ordinances are merely enabling ones vesting power in the Government to bring the provisions into force at any time they may consider it expedient to do so.

It is proposed to issue these measures as Emergency Acts in the first instance and if necessary, to introduce them thereafter in the Representative Assembly and the Legislative Council.

The Dewan and the other Ministers are agreeable to

(F.N.—contn.)

to the above proposals and I solicit the gracious sanction of His Highness to them.

MINISTER,
FINANCE AND REVENUE.

Bangalore,
30th January 1942.

*Submitted to His Highness.*

I submit herewith a Final Note by the Minister for Finance and Revenue on the subject of the proposal to introduce the Special Criminal Courts Ordinance, 1942 and the Penalties Enhancement Ordinance, 1942 as Emergency Acts in Mysore, for His Highness's gracious approval.

N. Madhava Rau

Bangalore,
2nd February 1942.

D E W A N.

TATEMENT OF CASES SUBMITTED FOR THE ORDERS OF HIS HIGHNESS THE MAHARAJA DURING THE TOUR OUTSIDE THE STATE IN..... February 1942.

| Register No. | Subject | Orders of His Highness | Order regarding submission of f (*vide* foot-note) |
|---|---|---|---|
| 621 | Proposal to introduce the Special Criminal Courts Ordinance, 1942 and the Penalties enhancement Ordinance, 1942 as Emergency Acts in Mysore. | KN. 20/2/'42. 132 | |

NOTE.—The letter a, b or c may kindly be inserted by the Private Secretary to His Highness in the last column to indicate wheth
File may be submitted at once ... ... a
File may be submitted after His Highness' return
File may not be submitted at all

Secretariat.

SUBJECT :—

**Proposal to introduce the Special Criminal Courts Ordinance, 1942 and the Penalties enhancement Ordinance, 1942 as Emergency Acts in Mysore.**

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

*Chief Secretary to Government.*

Through the Secretary to Government,

.....Law.....Department.

26.2.42

5182
27.2.42

Minister for Finance and Revenue.

Minister for Law.

4654
27.2.42

Minister for Education. 24.2.42

5760
28.2.42

Minister for Local Self-Govt. and Public Health.

2.3.42

Law Secretary.

4/3 WD 04199—GPB—500—27-9-41

4.3.42

Special criminal courts (Emergency) Act 1942, and the penalties Enhancement (Emergency) Act, 1942

General and Revenue Secretariat

File No. of 194 . [App. F. III—2

611 RL

Serial No.

The gracious assent of His Highness the Maharaja has been accorded on 20-2-1942 to promulgate the Ordinance into Emergency Acts

A draft G.O directing publication of the Acts as Acts Nos XVII and XVIII of 1942 is put up

24.
4-3-42

For approval
BKR
4-3-42

Law Secy

Hm
4-3-42

Issue now
BKR
4-3-42

Issued No RL-1666 Legis 49-41-1 dated 4-3-1942 to the compiler, Mysore Gazette, directing publication of the Special criminal courts (Emergency) Act 1942, as Act No XVII 1942.

Issued No R.L.1667 Legis 50-41-1 dated 4-3-1942 to the compiler, Mysore Gazette, directing publication of the ~~Special criminal courts~~ Penalties Enhancement (Emergency) Act, 1942 as Act No XVIII of 1942

~~Approved, this file will be recorded~~

Mor T.V.

A
7-3-42

26
7-3-42

Special Criminal Courts (Emergency) Act, 1942
and
The penalties Enhancement (Emergency) Act, 1942

File No. 618 | RL of 194 .

General and Revenue Secretariat.

Serial No.

OFFICE OF THE MINISTER FOR LAW
MAY 12 1942
No 11685

~~Subordinates~~,

I submit herewith one copy each of the Special Criminal Courts Bill and the penalties Enhancement Bill together with statements of principles for perusal

DN. 8-5-42 BDN 8/5

may be approved. The Bills have been ordered to be placed before the Assembly in June.

Sec'y RA

Secy RA The same can be laid today

8/5/42

SECY. LAW DEPT. 4085 8 MAY 1942 GOVT OF MYSORE

Law Secy)
The statements of principles may be approved

Minister for Law)

Hm 11/5/42

BKR 11.5.42

12/5

Hm 13/5/42

BKR 13.5.42

Mr D.N.

(Penalties Enhancement Act)

Our Emergency Act was based on the British Indian ordinance III of 1942. This ordinance has subsequently been amended by ordinance VII of 1942 making 2 Corrections one in Section 6 and another in section 7 Where reference to Section 9(1)(c) was wrongly given. In the Bill to be placed before the Assembly the Corrections

Hon'ble D.

Special Criminal Courts Bill
Penalties Enhancement Bill



OFFICE OF THE MINISTER FOR LAW
JUN 3 1942
No 12334

SECY. LAW DEPT.
45-47
20 MAY 1942
GOVT OF MYSORE

Serial No.

Will be made as in British India. They have been indicated at Flag E.

Secy (R & E)
DM 15.5.42

Law Secy
BSKR 20.5.42

CMS 20-5-42

BSKR 20.5.42

DM 20.5.42

These two Bills (1) Penalties Enhancement Bill and (2) Special Criminal Courts Bill were placed before the R.A. on the 1st June and approved.

It is for consideration if the Bills may be published under orders of the Dewan under rule 36 of the Legislative Rules in which case it will not be necessary to move for leave to introduce the Bill in the L.C.

The Statements of principles will be adopted as the Statements of Objects and Reasons.

Secy (R & E)
DM 3-6-42

Law Secy
BSKR 3.6.42
DM 3.6.42

Ministers for Law
Dewan

CMS 3-6-42

DM 2/6

RM 576/42

The Special Criminal Courts Bill &
Penalties enhancement bill.

File No. 6/56/RL of 194 .

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Subt with two draft notifications under Rule 36 of the Legislative rules for appl.

DM
6-6-42

Issue
DM
6.6.42

Issued NO RL 2571 dated 6th June 1942.
Issued NO RL 2569 dated 6th June 1942.

Subt

The Special Criminal Courts bill and the Penalties Enhancement bill, which were passed at the Current Session of the R.A. will be placed at the Autumn Budget Session of the L.C. for being enacted law. The following motions in respect of the above two bills are put up for ~~appl~~ Consideration

1) Motion to introduce the bill and to move that the bill be published under Rule 36 of the Mysore Legislative rules, be taken into Consideration by the Council at once

Mover, - Minister for Law

2) Motion that the bill be passed

Mover - Minister for Law

DM
9.6.42.
9/6

BXR
10.6.42

Law Minister)

10/6

Serial No.

From The Secy to the Hon'ble the Revenue Member D. 3016/W & 3rd June. 42 inviting attention to certain War Ordinances published in the Gazette of India Extra. ordy & 22nd May. 42. 243 are amendments to the Defence of India Act and the Special Criminal Courts Act, which have been promulgated also. Similar action has to be taken here and this will be dealt with in the Legislative Section if necessary action. No action seems to be necessary re. 1 & 4 (since there is no mines here). Subject for pleasure

As regards the Special Criminal Courts Bill (Amendment Act), the amendment may be incorporated in the Bill to be brought before the L.C. so that the Act may be promulgated with the amendment

4/6

4/6

4/6

4/6

4/6

4/6

OFFICE OF THE MINISTER FOR LAW
JUN 8 1942
No. 12437

OFFICE OF THE SECRETARY
MADRAS.
11 JUNE 1942
REPRESENTATIVE ASSEMBLY
LEGISLATIVE COUNCIL

NOTE—Contn. sheet.

WD 04165—GPB—55,000—28-10-41

of 194 L-C

General and Revenue Secretariat.

Serial No.

The special criminal Courts bill, with the Statement of objects & reasons has been got Printed for distribution among the members of the L. C. As a new Section 24A. has now to be added to the bill, it is for orders if the same may be printed & laid before the House as an amendment to the bill.

DSR.
11.6.42

OFFICE OF THE MINISTER FOR LAW
JUN 16 1942
No. 12678

A — The Amendment Section 24A is laid

Under Legislature Rule 36, the Bill has already been published and copies of the Bill have also been sent to the members along with the agenda. It seems therefore not possible now to introduce this additional clause in the Bill.

The proposed new clause may perhaps be moved as an amendment to the Bill, after giving the required notice to the Secretary L.C.

B

BSR
13.6.42

SECY. LAW DEPT.
S. 145
15 JUNE 1942
GOVT OF MYSORE

Law Secy)
A & B are for orders

Law Minister)
I think it is better to wait till necessary
at all

hm
15.6.

BSR
16.6.42

please link to Bill file.
hm
17.6.42

hm 17.6.

BSR
17.6.42

Penalties Enhancement Bill

Special Criminal Courts Bill.

Continuation Sheet. File No. / Current No. of Page.

The Penalties Enhancement ordinance has been recently amended in British India by ordinance XXIX of 1942. By this amendment, Certain the offences under the Indian Penal Code have been brought within the purview of the Penalties Enhancement ordinance and are made subject to enhanced penalties. These offences are

1. Extortion S 386.
2. Putting person in fear of death. S 387
3. Robbery S 392
4. Attempt to Commit robbery S 393
5. Preparation for dacoity S 399.
6. Theft in dwelling house etc S 380
7. Theft after preparation to Cause death or hurt in order to/the Committing of theft S 382
8. Causing hurt in Committing robbery S 394
9. Dacoity S 395.

It is for orders if similar amendments have to be undertaken in regard to the Bill that will come up before the Leg. If it is decided to adopt these amendments in the case, motions for amending the Bill have to be tabled, and moved when the Bill is taken into Consideration.

Secy Rev Dept 18.6.42

Law Secy 18.6.42

Law Secy Law Minister 18/6

Draft of a notice to the Secy Leg to put up for approval

WD 18.6

WD 06260—GPB—500 pads of 100 sheets each—20-3-42

Law Secy 18.6.42 WD 18.6. Issue. put up now 19.6.42

SECY. LAW DEPT. S-332 18 JUNE 1942 GOVT OF MYSORE

Penalties Enhancement Bill 698 RC

Continuation Sheet. File No. / Current No. 14 of Criminal Courts. Page.

OFFICE OF THE MINISTER FOR LAW
JUL 1 1942
No

DEWAN'S OFFICE
3. JUL. 1942
NO 175

SECY. LAW DEPT.
29 JUNE 1942
GOVT. OF MYSORE

The Secretary,
Legislative Council

Gives notice of certain Amendments to the Penalties Enhancement Bill.

The two Bills were introduced in the Council and taken into Consideration. All the amendments which notice has been given of the Law Secy have accepted. The Bills are finally passed.

A D.S.N. is put up for approval

DNS
29.6.42

Secy
Rev)

BXR
29.6.42

Law Secy)

Law Minister) 30.6.42

BXR
30.6.42

1/7

A. D. S. N. is submitted for approval

DN.
2-7-42
BXR
2/7

DNS
2.7.42

Secy
Rev)

BXR
3.7.42

SECY. LAW DEPT.
3 JULY 1942
GOVT OF MYSORE

Law Secy)

Dewan) 3.7.42

BXR
3.7.42

WD 06260—GPB—500 pads of 100 sheets each—20-3-42

**Final Note by the Minister for Law.**

*Subject.*—

Promulgation of the Special Criminal Courts and the Penalties Enhancement Bills.

On the 20th of February 1942, His Highness was graciously pleased to approve of the proposal to promulgate the Special Criminal Courts and the Penalties Enhancement Bills as emergency measures in the fir instance and thereafter to take action, if necessary, to introduce t in the Representative Assembly and the Legislative Council. The tw measures were accordingly enacted as emergency measures. As the ne for their continuance after the expiry of the normal life of Emergen Acts was considered necessary, the Bills were placed before the Repr sentative Assembly during its recent session and were approved by it. The Bills were thereafter introduced in the Legislative Council durin its present session. The Penalties Enhancement Ordinance of British India, on the lines of which the Mysore Bill is based, was in the mean while subjected to certain amendments. These amendments were brought up for consideration of the Legislative Council in the form of motions and this Bill as amended, and the Special Criminal Courts Bill, were passed by the Council.

*Submitted to His Highness.*

I submit herewith a Final Note by the Minister for Law on the subject of the Special Criminal Courts and the Penalties Enhancement Bills, for His Highness's gracious approval.

K. Seshadri Rama Rau

Bangalore,
4th July 1942.

D E W A N.

**Record of Cases submitted for the Orders of His Highness the Maharaja.**

## *Subject.*

Promulgation into law of the Special Criminal Courts and the Penalties Enhancement Bills.

## *Order.*

7/7/42.

General and Revenue

Secretariat.

C 22

SUBJECT :—

**Promulgation into law of the special Criminal Courts and the Penalties Enhancement Bills.**

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules for the conduct of business of Council in the Mysore Government Business Rules.) (*)

*Chief Secretary to Government.*

Through the Secretary to Government,

.....Law.....Department. 10-7.

205
10.7.42

Minister for Finance and Revenue. 10 7

439
13.7.42

Minister for Law.

232
10.7

Minister for Education. 11.7.42

417
11/7

Minister for Local Self-Govt. and Public Health. 11.7.42

Law Secy
W/C. 15.7.42

15.7.42

NOTE.—Contn. sheet

WD 06360—GPB—500—23-3-42

The Special Criminal Courts Act, 1942 25
The Penalties & Enhancement Act, 1942

File No. / Current No. of Page.

The gracious assent of His Highness was accorded on the 7th day of July 1942 to promulgate the two Bills into Law.

Draft G.O.s directing publication of the two Acts as Act No XXIV and Act No XXV respectively are submitted for approval.

20-7-42

20-7-42

Secy DA &c

20-7-42

Law Secy

20-7-42

20-7-42

Issued Nos RL 97- Legis 3 42-1 and RL 98 Legis 4 42-1 dated 21st July 1942 to the compiler, Mysore Gazette

Copies of Acts No XXIV and XXV of 1942 are put up herewith. The file will be recorded if approved

7-9-42

GOVT. LAW DEPT. 741 20 JULY 1942 GOVT OF MYSORE

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F9-42/41

FROM

THE SECRETARY
TO THE HON'BLE THE RESIDENT IN MYSORE.

OFFICE OF THE SECRETARY
MYSORE

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

CHIEF SECRETARY
13 JAN 1942
GOVT. OF MYSORE.

*Dated Bangalore, the* 13th January 194 2

The Special Criminal Courts Ordinance and the Penalties (Enhancement) Ordinance, 1942.

---

I am directed to invite the attention of the Government of Mysore to the Gazette of India (Extraordinary) dated the 2nd January 1942, promulgating the Special Criminal Courts Ordinance, 1942, and the Penalties (Enhancement) Ordinance, 1942.

I have the honour to be,
Sir,
Your most obedient servant,

Raman Nayar.
for SECRETARY TO THE RESIDENT.

REGISTERED No. L. 3131

# The Gazette of India

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

## NEW DELHI, FRIDAY, JANUARY 2, 1942


GOVERNMENT OF INDIA

**LEGISLATIVE DEPARTMENT**

*New Delhi, the 2nd January, 1942*

ORDINANCE No. II OF 1942.

AN

## ORDINANCE

*to provide for the setting up of special criminal Courts.*

WHEREAS an emergency has arisen which makes it necessary to provide for the setting up of special criminal Courts;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

Short title, extent and operation.

**1.** (*1*) This Ordinance may be called the Special Criminal Courts Ordinance, 1942.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force in any Province only if the Provincial Government, being satisfied of the existence of an emergency arising from a hostile attack on India or on a country neighbouring on India or from the imminence of such an attack, by notification in the official Gazette, declares it to be in force in the Province, and shall cease to be in force when such notification is rescinded:

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Ordinance were still in force.

Definition.

**2.** In this Ordinance, unless there is anything repugnant in the subject or context, "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner.



[*Price 1 anna.*]

Special Courts.

**3.** Courts of criminal jurisdiction may be constituted under this Ordinance of the following classes, namely :—

(*i*) Special Judges ;

(*ii*) Special Magistrates ;

(*iii*) Summary Courts.

Special Judges.

**4.** The Provincial Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1898 (hereinafter in this Ordinance referred to as the Code). V of 1898.

Jurisdiction of Special Judges.

**5.** A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Provincial Government, or a servant of the Crown empowered by the Provincial Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

**6.** (*1*) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates :

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(*2*) In matters not coming within the scope of sub-section (*1*), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge ; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

**7.** A Special Judge may pass any sentence authorised by law.

Review of convictions.

**8.** If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Provincial Government, which person shall be chosen from the Judges of the High Court having jurisdiction over the area for which the Special Judge is appointed, and the decision of that person shall be final.

Special Magistrates.

**9.** Any Presidency Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Provincial Government with the powers of a Special Magistrate under this Ordinance.

Jurisdiction of Special Magistrates.

**10.** A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences punishable under the Indian Penal Code with death, as the Provincial Government, or a servant of the Crown empowered by the Provincial Government in this behalf, may, by general or special order in writing, direct. XLV of 1860

Procedure of Special Magistrates.

**11.** (*1*) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (*1*) of section 6 for the trial of cases by a Special Judge.

(*2*) In matters not coming within the scope of sub-section (*1*), the provisions of the Code, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

**12.** (*1*) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(*2*) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 5.

Appeals.

**13.** (*1*) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the High Court in a Presidency-town and elsewhere to the Court of Session.

(*2*) An appeal under sub-section (*1*) shall be presented within seven days from the date of the sentence.

(*3*) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

**14.** If any question arises whether, under any order made under section 5 or section 10, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

**15.** The Provincial Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

**16.** (*1*) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate, or in a Presidency-town the Chief Presidency Magistrate, or a servant of the Crown authorised in this behalf by the District Magistrate or Chief Presidency Magistrate, may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (*1*) of section 260 of the Code.

(*2*) The District Magistrate or Chief Presidency Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (*1*).

Procedure of Summary Courts.

**17.** In the trial of any case a Summary Court shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

**18.** Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

**19.** (*1*) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie in a Presidency-town to the Chief Presidency Magistrate and elsewhere to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the district in which the Summary Court is situated to hear appeals from that Court.

(*2*) An appeal under sub-section (*1*) shall be presented within seven days from the date of the sentence.

(*3*) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

**20.** (*1*) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Ordinance or, if no such Court has been so empowered, to an ordinary criminal Court having jurisdiction.

(*2*) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate or in a Presidency-town to the Chief Presidency Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Ordinance having jurisdiction, or to an ordinary criminal Court having jurisdiction, or

(*c*) report it for the orders of the Provincial Government.

Powers of Special Courts to deal with refractory accused.

**21.** (*1*) Where an accused, in a trial before a Court constituted under this Ordinance, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(*2*) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (*1*), such accused shall be deemed not to plead guilty.

(*3*) An order under sub-section (*1*) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(*4*) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Ordinance shall be held

to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (*1*).

Powers of Special Courts to exclude the public.

**22.** A Court constituted under this Ordinance may if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence

**23.** Notwithstanding anything contained in the
72. Indian Evidence Act, 1872, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Ordinance, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

**24.** (*1*) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Ordinance to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(*2*) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Ordinance may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal practitioners.

**25.** A Court constituted under this Ordinance shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

**26.** Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Ordinance, be no appeal from any order or sentence of a Court constituted under this Ordinance and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

**27.** The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from or consequent upon a trial by special criminal Courts constituted under this Ordinance.

LINLITHGOW,
*Viceroy and Governor General.*

*The 31st December, 1941.*

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G. H. SPENCE,
*Secy. to the Govt. of India.*

GOVERNMENT OF INDIA

**LEGISLATIVE DEPARTMENT**

*New Delhi, the 2nd January 1942*

ORDINANCE No. III OF 1942

AN

# ORDINANCE

*to enhance in certain circumstances the penalties provided by law for the punishment of certain offences.*

WHEREAS an emergency has arisen which makes it necessary to enhance in certain circumstances the penalties provided by law for the punishment of certain offences ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :— 26 Geo. 5, c. 2.

Short title, extent and operation.

**1.** (*1*) This Ordinance may be called the Penalties (Enhancement) Ordinance, 1942.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force at once ; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Provincial Government to put the provisions of this Ordinance into effect.

**2.** The Provincial Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout the Province, or in any specified area in the Province.

Punishment for theft.

**3.** Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack, or commits theft of any article which has been left exposed or unprotected as a consequence of war operations shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code, and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, or made or given by any officer of His Majesty's Forces acting in the course of his duties. XLV of 1860. XXXV of 1939.

Punishment for offences under sections 326, 435 and 436, Indian Penal Code.

**4.** Whoever commits an offence punishable under section 326 or section 435 or section 436 of the Indian Penal Code may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

Punishment for contraventions of rule 35, Defence of India Rules.

**5.** Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules may, in lieu of any punishment to which he is liable under the said rule, be punished with death, or with whipping.

Punishment for offences under section 375, Indian Penal Code.

**6.** Whoever commits an offence punishable under section 375 of the Indian Penal Code may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1909, be punished with death. IV of 1909.

Punishment for offences under sections 146, 148 and 186, Indian Penal Code.

**7.** Whoever commits any offence punishable under section 146 or section 148 or section 186 of the Indian Penal Code may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

Saving.

**8.** Notwithstanding anything elsewhere contained in any Act, Regulation or Ordinance, an offence made punishable with death by this Ordinance shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

LINLITHGOW,
*Viceroy and Governor General.*

*The 31st December, 1941.*

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G. H. SPENCE,
*Secy. to the Govt. of India.*

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## DEFENCE CO-ORDINATION DEPARTMENT

### NOTIFICATION

*New Delhi, the 2nd January 1942*

**No. 893-SM/41.**—In exercise of the powers conferred by sub-section (*4*) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the powers conferred on it by rules 18, 20 and 21, and by sub-rules (*2*) and (*3*) of rule 19, of the Defence of India Rules shall be exercisable also by any Provincial Government.

A. DEC. WILLIAMS,
*Secy. to the Govt. of India.*

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. R.L. 1666- Legis 49-41-1 Dated, Bangalore, 4-3-1942

Ordered that the accompanying Special Criminal Courts (Emergency) Act, 1942

which received the assent of His Highness the Maharaja, on the 20th day of February 1942 be published as Act No. XVII of 1942 in the *Mysore Gazette*, for general information.

Hm 4.3.42

BKR 4.3.42

~~General~~ *Secretary to Government.*
Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

Translation Sect

## NOTIFICATION.

*Order No. R. L.* 1666—*Legis.* 49-41-1, *dated Bangalore, the 4th March* 1942.

Ordered that the accompanying Special Criminal Courts (Emergency) Act, 1942, which received the assent of His Highness the Maharaja, on the 20th day of February 1942, be published as Act No. XVII of 1942 in the *Mysore Gazette*, Part IV, for general information.

H. V. NARAYANA RAO,
*Secretary to Government,*
*Law Department.*

## ACT No. XVII OF 1942.

### Special Criminal Courts (Emergency) Act, 1942.

(*Received the assent of His Highness the Maharaja on the 20th day of February* 1942).

WHEREAS the Government of His Highness the Maharaja of Mysore is satisfied that circumstances exist which render it necessary to make immediate provision for the setting up of Special Criminal Courts ;

NOW THEREFORE in exercise of the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940 (XVIII of 1940) ;

It is hereby enacted as follows :—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal Courts (Emergency) Act, 1942.

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore only if the Government by notification in the Official Gazette declares it to be in force in such area and shall cease to be in force when such notification is rescinded :

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely :—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code (II of 1904) of Criminal Procedure, (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeals.

12. (1). Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary Act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Act, shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Powers of Special Courts to exclude the public.

21. A Court constituted under this Act may if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 5 of the Code, a Court constituted under this Act may, hen imposing a fine on any person convicted by the ourt, order the whole or any part of the fine recovered be applied—

(*a*) in the payment to any person affected by the fence of compensation for any loss, injury or annoyance used by the offence, or

(*b*) in the payment of a reward to any person who is given information leading to the detection of the fence or to the conviction of the accused.

**Legal Practitioners.**

24. A Court constituted under this Act shall not be quired to grant an adjournment for the purpose of secur- g the attendance of a legal practitioner, if in the opinion the Court such adjournment would cause unreasonable elay in the disposal of the case.

**Exclusion of interference of other Courts.**

25. Notwithstanding the provisions of the Code, or anything having the force of law by whatsoever uthority made or done, there shall, save as provided in his Act, be no appeal from any order or sentence of a ourt constituted under this Act and, save as aforesaid, o Court shall have authority to revise such order or ntence, or to transfer any case from any such Court, or o make any order under section 491 of the Code or have ny jurisdiction of any kind in respect of any proceedings f any such Court.

**Application of ordinary law.**

26. The provisions of the Code and of any other law or the time being in force, in so far as they may be pplicable and in so far as they are not inconsistent with he provisions of this Act, shall apply to all matters onnected with, arising from or consequent upon a trial y special criminal Courts constituted under this Act.

N. MADHAVA RAU,

*Dewan.*

**Price: 0-0-9.**

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. R.L.1669-Legis 50-41-1 Dated, Bangalore, 4-3-1942

Ordered that the accompanying Penalties Enhancement (Emergency) Act, 1942

which received the assent of His Highness the Maharaja on the 28th day of February 1942 be published as Act No. XVIII of 1942 in the *Mysore Gazette*, for general informati

4.3.42
General Secretary to Govern.....
Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

## NOTIFICATION.

*Order No. R. L.* 1667—*Legis.* 50-41-1, *dated Bangalore, the 4th March* 1942.

Ordered that the accompanying Penalties Enhancement (Emergency) Act, 1942, which received the assent of His Highness the Maharaja, on the 20th day of February 1942, be published as Act No. XVIII of 1942, in the *Mysore Gazette*, for general information.

H. V. NARAYANA RAO,
*Secretary to Government,*
*Law Department.*

## ACT No. XVIII of 1942.

### The Penalties Enhancement (Emergency) Act, 1942.

(*Received the assent of His Highness the Maharaja on the 20th day of February* 1942).

WHEREAS the Government of His Highness the Maharaja is satisfied that circumstances exist which render it necessary to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

NOW THEREFORE in exercise of the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940 (XVIII of 1940);

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) (Emergency) Act, 1942.
(2) It extends to the whole of Mysore.
(3) It shall come into force at once; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by

reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 435 or section 436 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

Punishment for contraventions of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore may, in lieu of any punishment to which he is liable under the said rules, be punished with death, or with whipping.

Punishment for offences under section 375, Indian Penal Code.

6. Whoever commits an offence punishable under section 375 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death.

Punishment for offences undersections 146, 148 and 186, Indian Penal Code.

7. Whoever commits any offence punishable under section 146 or section 148 or section 186 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

Saving.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

N. MADHAVA RAU,
*Dewan.*

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Special Criminal Courts Bill

Statement of principles.

In January 1942 the Special Criminal Courts Ordinance 1942, has been promulgat in British India providing for the settin up of certain special Criminal Courts and outlining a speedy procedure for trial in those courts. Special jurisdiction is co ferred on them and certain special powers which are considered essential for such speedy procedure ~~has~~ have also been given to the

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## SPECIAL CRIMINAL COURTS BILL.

### Statement of Principles.

In January 1942, the Special Criminal Courts Ordinance, 1942, has been promulgated in British India providing for the setting up of certain special Criminal Courts and outlining a speedy procedure for trial in those Courts. Special Jurisdiction is conferred on them and certain special powers, which are considered essential for such speedy procedure, have also been given to them.

The need for similar legislation in Mysore was examined carefully in view of any emergency that may arise from a hostile attack or from the imminence of such an attack, and the Government considered it necessary to undertake similar legislation in Mysore. As the matter was considered urgent, the measure was promulgated as an Emergency Act in February 1942. The conditions, which have necessitated the passing of this Emergency Act, are not likely to cease within the period of six months. It is, therefore, proposed to place it permanently on the Statute Book. No Courts have been set up under the Emergency Act and action under the measure will be taken only when circumstances render such a step essential.

## NOTIFICATION.

*Order No. R. L.* 1666—*Legis.* 49-41-1, *dated Bangalore, the 4th March* 1942.

Ordered that the accompanying Special Criminal Courts (Emergency) Act, 1942, which received the assent of His Highness the Maharaja, on the 20th day of February 1942, be published as Act No. XVII of 1942 in the *Mysore Gazette*, Part IV, for general information.

H. V. NARAYANA RAO,
*Secretary to Government,*
*Law Department.*

## ACT No. XVII OF 1942.

Bill

## Special Criminal Courts (~~Emergency~~) ~~Act, 1942~~.

*Received the assent of His Highness the Maharaja on the 20th day of February* 1942).

it is expedient

WHEREAS ~~the~~ Government ~~of His Highness the Maharaja of Mysore is satisfied that circumstances exist which render it necessary~~ to make ~~immediate~~ provision for the setting up of Special Criminal Courts;

NOW ~~THEREFORE~~ in exercise of the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940 (XVIII of 1940);

It is hereby enacted as follows:—

1. (1) This Act may be called the Special Criminal Courts (~~Emergency~~) Act, 1942. Short title, extent and operation.

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore only if the Government by notification in the Official Gazette declares it to be in force in such area and shall cease to be in force when such notification is rescinded:

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely :—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code (II of 1904) of Criminal Procedure, (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate ; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4

Appeals.

12. (1). Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or in a case tried by summary procedure passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary Act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Act, shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Powers of Special Courts to exclude the public.

21. A Court constituted under this Act may if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal Practitioners.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

25. Notwithstanding the provisions of the Code, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by special criminal Courts constituted under this Act.

~~N. MADHAVA RAU~~, Dewan.

27. The Special Criminal Courts (Emergency) Act 1942 (XVII of 1942) is hereby repealed.

Price: 0-0-9.

# THE PENALTIES ENHANCEMENT BILL

## Statement of principles.

The Penalties Enhancement Ordinance, 1942 promulgated by the Governor-General in January 1942 provides for the enhancement, in certain circumstances, of the penalties provided by law for the punishment of certain offences. Such a step is intended to prevent theft and allied offences during War operations and during times of panic by providing for very deterrent punishment. These enhanced penalties ~~are~~ however become applicable only by the issue of a Notification by the Government to that effect.

Government considered it necessary to take similar power in Mysore to enhance penalties by the issue of a notification in an Emergency. The matter being urgent, an Emergency Act was passed in February 1942. The ~~present~~ circumstances have not changed for the better, ~~render~~ It ~~desirable~~ necessary to continue the provisions of the Act beyond its life of 6 months. ~~and hence~~ Therefore this measure has been brought forward in order Offence is permanently on the Statute Book. It is proposed to issue notifications under this Act only when the necessity for such issue arises.

~~NOTIFICATION~~.

*Order No. R. L.* 1667—*Legis.* 50-41-1, *dated Bangalore, the 4th March* 1942.

Ordered that the accompanying Penalties Enhancement (Emergency) Act, 1942, which received the assent of His Highness the Maharaja, on the 20th day of February 1942, be published as Act No. XVIII of 1942, in the *Mysore Gazette*, for general information.

H. V. NARAYANA RAO,
*Secretary to Government,*
*Law Department.*

~~ACT~~ No. XVIII of ~~1942~~.

Bill

**The Penalties Enhancement (~~Emergency) Act, 1942~~.**

(*Received the assent of His Highness the Maharaja on the 20th day of February* 1942).

WHEREAS ~~the Government of His Highness the Maharaja is satisfied that circumstances exist which render it necessary~~ to make ~~immediate~~ provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

NOW THEREFORE in exercise of ~~the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940 (XVIII of 1940)~~;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) (~~Emergency~~) Act, 1942.
(2) It extends to the whole of Mysore.
(3) It shall come into force at once; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by

reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

4. Whoever commits an offence punishable under section 396 or section 435 or section 436 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore may, in lieu of any punishment to which he is liable under the said rules, be punished with death, or with whipping.

6. Whoever commits an offence punishable under section 377 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death.

7. Whoever commits any offence punishable under section 146 or section 148 or section 186 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

N. MADHAVA RAU,

## 3. THE SPECIAL CRIMINAL COURTS BILL.

### Statement of Principles.

In January 1942, the Special Criminal Courts Ordinance, 1942, has been promulgated in British India, providing for the setting up of certain special Criminal Courts and outlining a speedy procedure for trial in those Courts. Special jurisdiction is conferred on them and certain special powers, which are considered essential for such speedy procedure, have also been given to them.

The need for similar legislation in Mysore was examined carefully in view of any emergency that may arise from a hostile attack or from the imminence of such an attack, and the Government considered it necessary to undertake similar legislation in Mysore. As the matter was considered urgent, the measure was promulgated as an Emergency Act in February 1942. The conditions, which have necessitated the passing of this Emergency Act, are not likely to cease within the period of six months. It is, therefore, proposed to place it permanently on the Statute Book. No Courts have been set up under the Emergency Act and action under the measure will be taken only when circumstances render such a step essential.

### The Special Criminal Courts Bill.

WHEREAS it is expedient to make provision for the setting up of Special Criminal Courts;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal Courts Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore only if the Government, by notification in the official Gazette, declares it to be in force in such area and shall cease to be in force when such notification is rescinded:

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

2. Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely:—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1904 (hereinafter in this Act referred to as the Code)

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered

by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death, as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeal.

12. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or, in a case tried by summary procedure, passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial or being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Act, shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

21. A Court constituted under this Act may, if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court. Powers of Special Courts to exclude the public.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act, if such person is dead or cannot be found or is incapable of giving evidence. Special rule of evidence.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender. Special rule of procedure.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case. Legal Practitioners.

25. Notwithstanding the provisions of the Code, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court. Exclusion of interference of other Courts.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by Special criminal Courts constituted under this Act. Application of ordinary law.

27. The Special Criminal Courts (Emergency) Act, 1942, (XVII of 1942), is hereby repealed. Repeal and Savings.

## 2. THE PENALTIES ENHANCEMENT BILL.

### Statement of Principles.

The Penalties Enhancement Ordinance, 1942, promulgated by the Governor-General in January 1942, provides for the enhancement, in certain circumstances, of the penalties provided by law for the punishment of certain offences. Such a step is intended to prevent theft and allied offences during war operations and during times of panic, by providing very deterrent punishment. These enhanced penalties, however, become applicable only by the issue of a notification by the Government to that effect.

Government considered it necessary to take similar power in Mysore to enhance penalties by the issue of a notification in an emergency. The matter being urgent, an Emergency Act was passed in February 1942. The circumstances have not changed for the better. It is necessary to continue the provisions of the Act beyond its life of six months. Therefore, this measure has been brought forward in order to place it permanently on the Statute Book. It is proposed to issue notifications under this Act only when the necessity for such issue arises.

### The Penalties Enhancement Bill.

WHEREAS it is expedient to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force at once; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations, shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore, or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 435 or section 436 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

Punishment for contraventions of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore may, in lieu of any punishment to which he is liable under the said rules, be punished with death, or with whipping.

Punishment for offences under section 376, Indian Penal Code.

6. Whoever commits an offence punishable under section 376 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death.

Punishment for offences under sections 147, 148 and 186, Indian Penal Code.

7. Whoever commits any offence punishable under section 147 or section 148 or section 186 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

Saving.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

9. The Penalties Enhancement (Emergency) Act, 1942, (XVIII of 1942), is hereby repealed.

## GOVERNMENT BUSINESS.

### BILLS.

**The Special Criminal Courts Bill.**

The SECRETATY to GOVERNMENT, LAW DEPARTMENT, (Mr. C. Narayanaswamy Naidu) explained the general principles of

Mr. KHAJI SYED YUSUF said that in the case of Criminal proceedings, the special judges so appointed should be assisted by a jury or assessors. Further, these cases were disposed off by summary courts. And in the case of such heavy punishments as death sentence or transportation for life, it was absolutely necessary that the Judge should have the help of assessors.

The MINISTER for LAW (Rajadevaprasaktha, A.V. RAMANATHAN) replied that the proceedings would be submitted for review by a person nominated in this behalf by the Government and who would be chosen from among the Judges of the High Court.

Mr. B.R.PUTTAMANJAPPA suggested that the type of offences and also the occasion when this should be applied might be specially stated in the Bill.

Mr. Bhupalam R.CHANDRASEKHARAYYA thought that the provision contained in clause 24, namely, that "a court constituted under this Act should not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case", was rather a very harsh one. In this view, he requested that it might be deleted, as it might not be necessary in the case of Mysore.

Mr. A.V.RAMANATHAN replying to the debate said that three points had been raised in the course of the discussion, namely,

1) the circumstances under which this Act would be applied,

2) whether there was any provision for granting adjournment under clause 24, and

3) the need for making a provision for trial by jury.

Regarding the first point, this act would be applied only when circumstances rendered such a step essential. The Government had

had not brought the provisions of the Act into force so far though this had been enacted as an emergency measure. This will be brought into force only when people were terror-stricken, when peaceful avocations could no longer be carried on, when property and life were in danger, with a view to protect the person and property under war emergency conditions.

Mr. K.CHENGALARAYA REDDY enquired as to what steps they would take if it was not possible to bring this measure into force at all.

Mr. A.V.RAMANATHAN replied that under such circumstances, they could not have the elaborate procedure of having a preliminary trial and then committing the case to the Sessions either. They would then have to resort to Court-Martial under the Defence of India Act. It was only prior to that stage that they could think of keeping the unsocial elements under control. Then coming to the second point, the idea underlying clause 24 was that in cases where the Judge thought that the granting of adjournment would cause unreasonable delay in the disposal of the case, an adjournment could be refused. In other cases, adjournments would be granted as usual.

(The principles of the Bill were thereupon put and passed, the Congress Party remaining neutral.

At this stage, the House rose for the day to meet again at 12 of the clock the following day.

## GOVERNMENT BILLS.

## BILLS.

### The Penalties Enhancement Bill.

The SECRETARY to GOVERNMENT, LAW DEPARTMENT (Mr. C. Narayanaswamy Naidu) explained the general principles of the bill as follows:—

THE PENALTIES ENHANCEMENT BILL (Continued):—

Mr. Bhupalam R. CHANDRASEKHARAYYA observed that this Bill was promulgated by the Governor in the form of an ordinance in British India. On the other hand, the Government were here contemplating to make it a permanent legislation. He wanted to know whether the Bill before the House had already become a permanent measure in British India.

Mr. G. NARAYANASWAMY NAIDU replied that though it was promulgated as an ordinance in British India, it was proposed to place it permanently on the Statute Book in Mysore, since there was no provision in Mysore to continue an emergency measure for more than six months normally. As the war danger was still continuing, it was proposed to make it a permanent piece of legislation.

Mr. B. R. PUTTANANJAPPA referring to clause 3 of the Bill said that an ordinary Magistrate was invested with the power to impose death penalty on persons committing thefts, as against ordinary punishment prescribed in the penal laws.

Mr. G. NARAYANASWAMY NAIDU replied that the House was not considering the question of jurisdiction at all.

Mr. B. R. PUTTANANJAPPA wanted to know whether a provision for revision and appeal had been made in the Bill.

The MINISTER for LAW (Rajasevaprasaktha A. V. RAMANATHAN) stated that power of imposing death penalty had not been vested in the Magistrates. They had also not provided therein for going in appeal to High Court, as the Billbefore the House only dealth with enhancement of penalties prescribed under the Indian Penal Code. Moreover, the provisions in the Bill would come into operation only when a

THE PENALTIES ENHANCEMENT BILL (Continued):—

a notification was issued in the Gazette and the area specified in it.

One CONGRESS MEMBER enquired if it was not possible to incorporate the provision in the Indian Penal Code itself.

Mr. A.V. RAMANATHAN replied that as soon as it was incorporated in the Indian Penal Code, it would become permanent, but as the Law Secretary had stated, this was not intended to be used under ordinary circumstances, but only as a war measure and on occasions when a theft or other specified offence was committed in a building which had been damaged by war operations, or vacated by reason of attack by the enemy, etc.

Mr. JATHARE NAIK supported the Bill. He said that there was real fear in the minds of people that there might be wholesale looting in such circumstances. He, therefore, welcomed this measure as being very necessary at this time.

Srimathi SUNANDAMMA explained that the Leader of the Congress party had already made it clear that the party was taking a neutral stand so far as any measures relating to war were concerned. She pleaded for the abolition of death penalty as it was a sign of the savage and uncivilised people.

There was Hindu Dharma in the State; and there was the Muslim Dharma as well. It was, therefore, necessary to ascertain whether death penalty was justifiable either according to Hindu Dharma or Muslim Dharma. It was not justifiable to introduce a provision here on the simple ground that it was enacted in British India. They should know that the idea underlying the principle of giving the benefit of doubt in certain cases was only meant to see that no innocent man was punished. Sometimes through the cleverness of a lawyer, it

THE PENALTIES ENHANCEMENT BILL (Continued):—

it might become difficult to discern between innocense and guilt and a really innocent person might be penalised. In this view, she pleaded that either deportation or some other kind of punishment might be provided instead of death penalty. So far as the Government was concerned, the protection of their subjects, should be their first concern. But at the same time, short of death, the guilty person should be given the maximum punishment that he deserved. It was necessary that the Government should consider this aspect of the question very carefully and delete the provision of death penalty from the Statute and substitute the sentence of transportation for life, etc.

Mr. KHAJI SYED YUSUF apprehended that according to clause 8, even a third class Magistrate could award a sentence death.

Mr. C.NARAYANASWAMY NAIDU replied that the Magistrate concerned could not pass a sentence beyond his powers. There was no question of enhancing the powers of a Magistrate.

Mr. A.N.RAMA RAO, who next spoke, felt that the statement of Srimathi Sunandamma, namely, that because a dying man could not be given life, death punishment should never be inflicted, should not be left unchallenged. He wanted to know whether they should worship snakes and scorpions if they were found in the house, and never killed at all. This was a piece of legislation which was to be applied not under ordinary circumstances but at a time of war emergency when the honour of women also might be at stake and wholesale looting would be committed. Further, it was not right to say that light punishment should be given when thefts were committed inside the houses, when people had run away for their lives leaving their things unprotected, and such kinds of heinous acts were perpetrated. Death sentence should also be awarded when

THE PENALTIES ENHANCEMENT BILL (Continued):—

when murders were committed. It was not justifiable to modify the penal code in this respect. In this view, he pleaded that it was but proper that such offenders should be given drastic punishments.

Mr. M.N.JOIS said that at the time of preparing the Bill, the Government could have deleted the death sentence and introduced all the other penal provisions of the Indian Penal Code, in which case there would have been no objection at all from his party. He took this opportunity to lodge a protest against death penalty, since they were against it in principle. In conclusion, he stated that his party would remain neutral so far as this Bill was concerned.

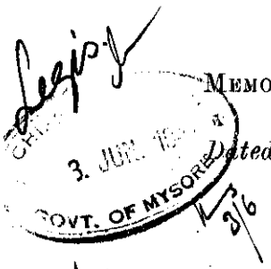
(The general principles of the Bill were thereupon put to vote and passed, the Congress party remaining neutral.

FROM

THE SECRETARY
TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government
of His Highness the Maharaja of Mysore,
BANGALORE.



MEMORANDUM No. D. 3010/W.

*Dated Bangalore, the* 3rd June *1942*.

WAR ORDINANCES.

Attention is invited to the Gazette of India

| | |
|---|---|
| 1. The Deputy Commander-in-Chief(Powers) Ordinance, 1942 (Ord.No.XXII of 1942) | Extraordinary dated the 22nd May 1942, promulgating the Ordinances noted in the margin. |
| 2. The Defence of India(Amendment) Ordinance, 1942 (Ord.No.XXIII of 1942 ). | |
| 3. The Special Criminal Courts(Amendment) Ordinance,1942 (Ord.No.XXIV of 1942). | |
| 4. The Coal Mines Safety(Stowing) Amendment Ordinance, 1942 (Ord.XXV of 1942). | |

for SECRETARY TO THE RESIDENT.

# The Gazette of India

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

NEW DELHI, FRIDAY, MAY 22, 1942


*[illegible] by an officer appointed by the Central Government of certain powers and functions vested in the Commander-in-Chief of His Majesty's Forces in India.*

WHEREAS an emergency has arisen which makes i necessary to provide for the exercise by an office appointed by the Central Government of certai powers and functions vested in the Commander-in Chief of His Majesty's Forces in India;

NOW, THEREFORE, in exercise of the powers con ferred by section 72 of the Government of India Ac as set out in the Ninth Schedule to the Government o India Act, 1935, the Governor General is pleased t make and promulgate the following Ordinance :—

1. (*1*) This Ordinance may be called the Deputy Commander-in-Chief (Powers) Ordinance, 19

Short title and commencement.

(*2*) It shall come into force at once.

Powers of Deputy Commander-in-Chief.

2. Any officer appointed to be Deputy C in-Chief of His Majesty's Forces in India may exercise any of the powers and functions vested in the Commander-in-Chief of His Majesty's Forces in India by or under the Army Act or by or under any Indian law for the time being in force.

LINLITHGOW,

*Viceroy and Governor General.*

G. H. SPENCE,

*Secy. to the Govt. of India.*

WHEREAS an emergency has arisen which makes i necessary further to amend the Defence of India Act 1939, for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferre by section 72 of the Government of India Act as set ou in the Ninth Schedule to the Government of Indi Act, 1935, the Governor-General is pleased to make an promulgate the following Ordinance:—

1. (*1*) This Ordinance may be called the Defenc of India (Amendment) Ordinance, 1942.

(*2*) It shall come into force at once.

2. In clause (*xiv*) of sub-section (*2*) of section 2 o the Defence of India Act, 1939 (hereinafter referred t as the said Act), the words "used or likely to be use by the Central Government" shall be omitted.

3. In section 6 of the said Act,—

(*a*) after clause (*2*) the following clause shall b inserted, namely:—

"(*2A*) Section 12 of the Indian Officia Secrets Act, 1923, shall have effect as i after clause (*a*) the following clause had been inserted, namely:—

(*aa*) an offence under section 5 shall be a cognizable and non-bailable offence'."

use (*5*) for the words beginning with "the n Navy (Discipline) Act, 1934" and g with the word "namely" the following be substituted, namely:—

Indian Navy (Discipline) Act, 1934, hall have effect as if in the Naval Disci line Act as set forth in the First Schedule o that Act—

z) in section 58, in regulations (1) and (16) for the word "five" the word "three", in regulation (7) for the words "the president is a captain" the words "the president is a commander", and in regulation (13) for the word "four" the word "two" had been substituted;

Notwithsta[illegible] any thing contained
in Chapter IV of the Act, but without
prejudice to the provisions of section
60, the transport authority which
granted a permit may at any time
cancel the permit or may suspend
it for such period as it thinks fit, if in
the opinion of the transport authority
it is no longer in the public interest
that the service should continue and
the vehicle or vehicles covered by
the permit can be more usefully
employed elsewhere; and the trans
port authority shall cancel or sus
pend a permit issued by it if so
required by the Provincial Govern
ment;

If in any particular case the Provincial
Government thinks fit so to order
the authority empowered to grant a
permit under Chapter IV of that Act
shall not, in deciding to grant or
refuse a permit, be bound to take into
consideration representations made by
any person, association or combination
other than the applicant, or to follow
the procedure laid down in section
57, and any person aggrieved by
[illegible]
[illegible]
[illegible]

ny provision of law for the time being in force which gives protection, whether specifically or otherwise, to members of His Majesty's military forces or of the police forces in British India from or in respect of any prosecution or other legal proceedings or from or in respect of any other liability shall apply also to members of an Indian State military force and to members of an Indian State police force or a police force constituted under the authority of the Crown Representative when so employed."

LINLITHGOW,
*Viceroy and Governor General.*

G. H. SPENCE,
*ecy. to the Govt. of Ind*

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GOVERNMENT OF INDIA

**LEGISLATIVE DEPARTMENT.**

*New Delhi, the 22nd May, 1942.*

ORDINANCE No. XXIV of 1942.

AN

# ORDINANCE

*amend the Special Criminal Courts Ordinance, 1942.*

WHEREAS an emergency has arisen which makes necessary to amend the Special Criminal Courts dinance, 1942, for the purpose hereinafter appearing ; n

NOW, THEREFORE, in exercise of the powers conferred section 72 of the Government of India Act as set out the Ninth Schedule to the Government of India Act, 35, the Governor General is pleased to make and pro- g ilgate the following Ordinance :—

1. (*1*) This Ordinance may be called the Special iminal Courts (Amendment) Ordinance, 1942.

(2) It shall come into force at once.

2. After section 24 of the Special Criminal Courts dinance, 1942, the following section shall be inserted, n mely :—

"24A. Notwithstanding anything contained in the Code no person accused in a trial before a Court constituted under this Ordinance of a non-bailable offence shall be released on bail or on his own bond unless—

(*a*) the prosecution has been given an opportunity to oppose the application for such release, and

(*b*) the Court is satisfied that there are reasonable grounds for believing that he is not guilty of the offence,

and no person who has been sentenced by a Court constituted under this Ordinance to a term of imprisonment for any offence whether bailable or non-bailable shall be released on bail pending any appeal by him."

LINLITHGOW,
*Viceroy and Governor General.*

# ORDINANCE

*further to amend the Coal Mines Safety (Stowing) Act, 1939.*

WHEREAS an emergency has arisen which makes it necessary further to amend the Coal Mines Safety (Stowing) Act, 1939, for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :-

**1.** (*1*) This Ordinance may be called the Coal Mines Safety (Stowing) Amendment Ordinance, 1942.

(*2*) It shall come into force at once.

**2.** In clause (*i*) of sub-section (*2*) of section 3 of the Coal Mines Safety (Stowing) Act, 1939, the words " in the service of the Crown " shall be omitted.

**LEGISLATIVE DEPARTMENT**

*New Delhi, the 10th June, 1942*

**RDINANCE No. XXIX OF 19**

# ORDINANCE

*urther to amend the Penalties (Enhancemen 1942.*

WHEREAS an emergency has arisen which makes it necessary further to amend the Penalties (Enhancement Ordinance, 1942, for the purposes hereinafter appearing

NOW, THEREFORE, in exercise of the powers con ferred by section 72 of the Government of India Ac as set out in the Ninth Schedule to the Government o India Act, 1935, the Governor General is pleased t make and promulgate the following Ordinance :—

1. (*1*) This Ordinance may be called the Penalties (Enhancement) Second Amendment Ordinance, 1942.

(*2*) It shall come into force at once

2. In section 3 of the Penalties (Enhancement) Ordinance, 1942 (hereinafter referred to as the said Ordinance), after the words "or with whipping" the words "or with whipping in addition to such rigorous imprisonment" shall be added

ORDINANCE No. XXX OF 1942.

# ORDINANCE

*to enable certain offences committed on board the Roy Hellenic Navy ship* Georgios Averoff *to be tri and punished in British India by a Naval Cou constituted under Hellenic law, and to make provisio for matters relevant thereto.*

WHEREAS an emergency has arisen which makes necessary to enable certain offences committed on boa the Royal Hellenic Navy ship *Georgios Averoff* to l tried and punished in British India by a Naval Cou constituted under Hellenic law, and to make provisic for matters relevant thereto :

Now, THEREFORE, in exercise of the powers co ferred by section 72 of the Government of India A as set out in the Ninth Schedule to the Government India Act, 1935, the Governor General is pleased make and promulgate the following Ordinance :—

1. (*1*) This Ordinance may be called the Hellenic Naval Court Ordinance, 1942.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force at once.

2. (*1*) A Naval Court constituted in accordance with Hellenic law (hereinafter referred to as the Naval Court) may, in respect of persons, not being British subjects, concerned in the commission of offences on board the Royal Hellenic Navy ship *Georgios Averoff*, exercise in British India, whether on board the said ship or at any place in Bombay allotted for the purpose by the Provincial Government, all such powers as are conferred upon such Court by Hellenic law.

(*2*) The Central Government shall, by notification in the official Gazette, publish notice of the establishment of the Naval Court and of its constitution and membership ; and thereupon such Court shall be conclusively presumed to have been lawfully constituted in accordance with Hellenic law and to have the jurisdiction conferred by this Ordinance.

(2) The Naval Court, and all persons taking part i any judicial proceedings before it, shall enjoy the lik immunities and privileges as a British Indian Court an persons taking part in judicial proceedings before it and the officers of the Naval Court shall have all th powers, immunities and privileges of police officers o British India within the precincts of the Court, and, i relation to persons in custody under the authority of th Court or delivered in custody to the Court by virtue o a warrant issued under this Ordinance, outside those precincts also.

3. On application made under the authority of the said Naval Court to a magistrate in British India to secure the attendance before it of a person to be charged with an offence or required as a witness, the magistrate may take any such steps, whether by the issue of summons or a warrant for arrest or otherwise, directed to secure the attendance or production of such person before the Naval Court and his attendance or production at any adjourned hearing until he is released from such attendance by the Naval Court, as such magistrate could take for the attendance or production before himself of such person; and if any person fails without reasonable excuse to comply with any requirement of a summons issued under this section he shall be liable to the like processes and punishable in the like manner as if he had failed to comply with a summons to appear before the magistrate himself.

4. (1) A certificate issued by the Naval Court in a any form approved by the Central Government, certi- as fying that any person has been sentenced by that Court to detention or ordered to be detained pending the determination of any proceedings against him before the Court, shall be conclusive proof that he is lawfully detained and shall be sufficient warrant for the detention of that person in any jail in British India sanctioned in this behalf by the Central Government, and for the conveyance of that person to that jail, and, in the case of a person not already in custody, for the apprehension of that person for the purpose of being so conveyed.

(2) The Central Government may direct in respect of any person so sentenced to detention that the imprisonment to which he is subjected shall be either simple or rigorous.

(3) A fine imposed upon a person by the Naval Court, and any sum ordered to be paid by way of costs of any proceedings against him or by way of penalty for breach of any undertaking given to the Court shall, without prejudice to any remedy under Hellenic law, be recoverable, on application made under the authority of the Court to any magistrate in British India, as if it were a fine imposed by that magistrate.

5. (1) The Central Government may by rule make Po any provision necessary in its opinion for the purpose rul of giving effect to the provisions of this Ordinance.

(2) Without prejudice to the generality of the power conferred by sub-section (1) rules under this section may make provision—

(a) as to the reception from the Naval Court of persons to be detained under this Ordinance, their conveyance to a jail, and their custody and treatment therein and release therefrom;

(b) as to the affording of assistance by magistrates in British India towards procuring the attendance or production of persons before the Naval Court.

LINLITHGOW,
*Viceroy and Governor General.*

G. H. SPENCE,
*Secy. to the Govt. of India.*

## THE SPECIAL CRIMINAL COURTS BILL.

Sir,-- I beg to introduce the Special Criminal Courts Bill and to move that the Bill, published under Rule 36 of the Mysore Legislative Rules, be taken into consideration by the Council at once.

This is another measure necessitated by the danger of war approaching our frontiers. Either during an hostile attack or when the public become panicky, it is essential that the unruly elements should be kept in check. For this purpose the Penalties Enhancement Bill provides for enhanced penalties. But that is not enough. It is also necessary to apply the deterrent sentences to offenders, with the minimum of delay. Cases should be disposed of promptly, so that they might have a deterrent effect upon other potential offenders. On such occasions, it will be difficult to secure the usual requirements of peace time, such as jury or counsel, as the normal population would have evacuated or would not risk moving about. The present bill takes note of such conditions but still provides safeguards in order to protect innocent persons. The jurisdiction vested in the different classes of Special Courts under this Bill is a graded one, depending upon the experience and status of the officer who presides over each Court. Sentences of death, transportation for life, or imprisonment for 7 years or more, and certain other proceedings before a Special Judge are subjected to review by a Judge of the High Court ~~in the case of sentences passed by a Special Judge~~. Appeals are provided against sentences passed by Special Magistrates and Summary Courts beyond specified limits.

The

The provisions of this Act will come into for only on the issue of a notification by Government and in such areas as are specified in the notification. As explained by me already, the situation i February was tense. The Special Criminal Courts (Emergency) Act was promulgated in February. But the situation eased and no notification has been issued under that Act. The potential danger is st there. It is therefore necessary to place the Act the Statute Book. It will be invoked only when th need arises.

The Bill has been approved by the Representati Assembly in its recent session. I am sure this House will also accord its acceptance.

I move that the Bill be taken into considerati by the Council.

THE PENALTIES (Enhancement) BILL.

Sir,-- I beg to introduce the Penalties (Enhancement) Bill and to move that the Bill, as published under Rule 36 of the Mysore Legislative Rules, be taken into consideration by the Council at once.

This is a measure necessitated by the danger of war approaching our boundaries.

As Hon'ble Members are aware, there was considerable apprehension among the public early this year consequent on the progress of the Japanese operations in Burma. People were scared by the accounts of looting, arson, rape, sabotage and other activities of unsocial elements in Rangoon and other places. The possible danger to women and property due to such activities loomed more largely in the people's minds than even the prospect of air raids or invasion.

This and the next three bills, if I may anticipate them, are designed to combat such a situation.

The present bill seeks to enhance the punishments provided by the Penal Code for the offences which are most likely to occur then, in order to deter mischievous elements from resorting to such crimes during times of scare or panic.

The provisions of this bill will come into force only on the issue of a notification by the Government and in areas specified in such notification. In February last, the situation was tense and there was a scare. Government considered it

necessary to have power to act in an emergency and promulgated an Emergency Act identical with the bill. But luckily, the situation cleared up and there has been no need till now to apply its provisions. The danger of war approaching our boundaries has not yet disappeared. It is therefore proposed to place the bill permanently on the Statute Book so that its provisions may be available if and when need arises. Government will take steps to repeal this and other war measures soon after the War is over and peace is established.

The bill was approved by the Representative Assembly early this month. I am sure it will meet with your approval also.

I move that the bill be taken into consideration by the House.

R.L. 2616.

18th June 1942.

The Secretary,
Legislative Council.

Sir,

I give notice of certain amendments to the Penalties Enhancement Bill as noted below which I intend moving at the ensuing Budget Session of the Legislative Council:-

1. In clause 3 of the Bill after the words "or with whipping", the words "or with whipping in addition to such rigorous imprisonment" be added.

2. (a) In clause 4 of the Bill after the word and figures "section 326" the words and figures "or section 386 or section 387 or section 392 or section 393 or section 399" be inserted.

(b) After the words "or with whipping" the words "or with whipping in addition to any punishment to which he is liable under the said Code" be added.

3. In clause 5 of the Bill after the words "or with whipping" the words "or with whipping in addition to any punishment to which he is liable under the said rule" be added.

4. In clause 6 of the Bill:-

(a) after the word and figures "section 376" the words and figures "or section 380 or section 382 or section 394 or section 395" be inserted;

(b) after the words "with death" the following words be added, namely:-

"or in the case of an offence punishable under section 380 or section 382 with whipping in addition to any punishment to which he is liable under the said Code."

5. In clause 7 of the Bill after the words "in lieu of" the words "or in addition to" be inserted.

I have the honour to be,
Sir,
Your most obedient servant,

18.6

SECRETARY to GOVERNMENT,
Law Department.

Bs.

*No. R. L.* 2571, *dated Bangalore, the 6th June* 1942.

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the undermentioned Special Criminal Courts Bill, together with the statement of objects and reasons.

By Order,

C. NARAYANASWAMY NAIDU,

*Secretary to Government,*
*Law Department.*

## THE SPECIAL CRIMINAL COURTS BILL.

### Statement of Objects and Reasons.

In January 1942, the Special Criminal Courts Ordinance, 1942, has been promulgated in British India, providing for the setting up of certain special Criminal Courts and outlining a speedy procedure for trial in those Courts. Special jurisdiction is conferred on them and certain special powers, which are considered essential for such speedy procedure, have also been given to them.

The need for similar legislation in Mysore was examined carefully in view of any emergency that may arise from a hostile attack or from the imminence of such an attack, and the Government considered it necessary to undertake similar legislation in Mysore. As the matter was considered urgent, the measure was promulgated as an Emergency Act in February 1942. The conditions, which have necessitated the passing of this Emergency Act, are not likely to cease within the period of six months. It is, therefore, proposed to place it permanently on the Statute Book. No Courts have been set up under the Emergency Act and action under the measure will be taken only when circumstances render such a step essential.

## The Special Criminal Courts Bill.

WHEREAS it is expedient to make provision for the setting up of Special Criminal Courts;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal Courts Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore only if the Government, by notification in the official Gazette, declares it to be in force in such area and shall cease to be in force when such notification is rescinded:

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

2. Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely:—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1904 (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose

unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death, as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate; and for the purposes

of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeal.

12. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or, in a case tried by summary procedure, passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a

Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

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20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right o being represented by a pleader at any stage of the trial o being present in person if he has become capable o appearing, or appears in Court and undertakes to behav in an orderly manner.

(4) Notwithstanding anything contained in th Code, no finding, sentence or order passed in a trial befor a Court constituted under this Act, shall be held to b illegal by reason of any omission or irregularity whatsoeve arising from the absence of any or all of the accuse whose attendance has been dispensed with under sub section (1).

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21. A Court constituted under this Act may, if i thinks fit, order at any stage of a trial that the publi generally or any particular persons shall not have acces to or be or remain in the room or building used by th Court.

pecial rule f evidence.

22. Notwithstanding anything contained in th Indian Evidence Act, 1872, as in force in Mysore, whe the statement of any person has been recorded by an

Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal Practitioners.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

25. Notwithstanding the provisions of the Code, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by Special Criminal Courts constituted under this Act.

Repeal and Savings.

27. The Special Criminal Courts (Emergency) Act, 1942, (XVII of 1942), is hereby repealed.

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D. H. Chandrasekharaiya
President, Legislative Council
4/6/42

*No. R. L. 2573, dated Bangalore, the 6th June 1942.*

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the undermentioned Insurance (Amendment) Bill, together with the statement of objects and reasons.

*By Order,*

C. NARAYANASWAMY NAIDU,
*Secretary to Government,*
*Law Department.*

## THE INSURANCE (AMENDMENT) BILL.

### Statement of objects and reasons.

In order to regulate and control the insurance business in the Mysore State, an Act on the lines of the Insurance Act in British India was promulgated in Mysore in 1939. Since then two Acts have been passed in British India in the years 1940, 1941 amending the provisions of the British Indian Act to remedy certain defects observed in working the Act.

The notes on clauses appended below indicate the nature of the amendments proposed to be effected by the Bill.

### Notes on clauses.

*Clause* 2 (i) The first amendment makes registration applicable to persons before they became insurers in the technical sense by commencing insurance business. The second removes doubts about validity of policy contracts entered into after the expiry of the period of three months mentioned in section 3 (i) by certain insurers who failed to obtain a certificate of registration in time in the hope of getting exemption under reciprocal arrangement with the Government of India.

## The Penalties Enhancement Bill.

WHEREAS it is expedient to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force at once; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations, shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping, or with whipping in addition to such imprisonment.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore, or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 435 or section 436 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

Punishment for contravention of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore may, in lieu of any punishment to which he is liable under the said rules, be punished with death, or with whipping.

Punishment for offences under section 376, Indian Penal Code.

6. Whoever commits an offence punishable under section 376 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death.

Punishment for offences under sections 147, 148 and 186, Indian Penal Code.

7. Whoever commits any offence punishable under section 147 or section 148 or section 186 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

Saving.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

Repeal.

9. The Penalties Enhancement (Emergency) Act, 1942, (XVIII of 1942), is hereby repealed.

D. H. Chandrasekharaiya
President, Legislative Council
27/6/46

D.F.N.

Subject:- The promulgation of the Special Criminal Courts and the Penalties Enhancement Bills.

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On the 20th of February 1942, His Highness was graciously pleased to approve of the proposal to promulgate the Special Criminal Courts and the Penlaties Enhancement Bills as emergency measures in the first instance and ~~to~~ thereafter to take action, if necessary, to introduce them in the Representative Assembly and the Legislative Council. The two measures were accordingly enacted as emergency measures ~~and~~ as the need for their continuance after the expiry of the normal life of Emergency Acts was considered necessary, the Bills were placed before the Representative Assembly during its recent session and were approved by it. The Bills were thereafter introduced in the Legislative Council during its present session. The Penalties Enhancement Ordinance of British India on the lines of which the Mysore Bill is based was, in the meanwhile, subject to certain amendments. These amendments were brought up for consideration of the Legislative Council in the form of motions and the Bill as amended was passed by the Council.

Copies of the Bills as finally passed and signed by the President are submitted to His Highness under Standing Order 45 of the Mysore Legislative Council Standing Orders.

I solicit the gracious sanction of His Highness to promulgate the two Bills into law.

MINISTER FOR LAW.

I submit herewith a Final Note by the Minister for Law on the subject of The Special Criminal Courts and the Penalties Enhancement Bills, for His Highness's gracious approval.

DEWAN.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. Legis 3-42-1 Dated, Bangalore, 10th July 1942

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Ordered that the accompanying Special criminal Courts Act, 1942

which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXIV of 1942, in the *Mysore Gazette*, for general information.

Under Secretary to Government.
Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

copy to the Translation Sect

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. ~~L-47 Legis. 3-42-1~~ 3-42-1

Dated, Bangalore, 20th July 1942

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Ordered that the accompanying Special Criminal Courts Act, 1942 which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXIV of 1942, in the Mysore Gazette, for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

*No. R. L.* 2571, *dated Bangalore, the 6th June* 1942.

Under the provisions of Rule 36 of the Mysore gislative Rules, 1941, the Dewan has been pleased to ler the publication in the Gazette of the undermen- ned Special Criminal Courts Bill, together with the tement of objects and reasons.

By Order,

C. NARAYANASWAMY NAIDU,

*Secretary to Government,*
*Law Department.*

## THE SPECIAL CRIMINAL COURTS BILL.

### Statement of Objects and Reasons.

In January 1942, the Special Criminal Courts )rdinance, 1942, has been promulgated in British India, roviding for the setting up of certain special Criminal lourts and outlining a speedy procedure for trial in those lourts. Special jurisdiction is conferred on them and ertain special powers, which are considered essential for uch speedy procedure, have also been given to them.

The need for similar legislation in Mysore was xamined carefully in view of any emergency that may rise from a hostile attack or from the imminence of such n attack, and the Government considered it necessary o undertake similar legislation in Mysore. As the matter as considered urgent, the measure was promulgated as n Emergency Act in February 1942. The conditions, hich have necessitated the passing of this Emergency ct, are not likely to cease within the period of six ronths. It is, therefore, proposed to place it permanently n the Statute Book. No Courts have been set up under he Emergency Act and action under the measure will be aken only when circumstances render such a step ssential

received the assent of His Highness the Maharaja on the 7th day of July 1

# The Special Criminal Courts Bill. Act

WHEREAS it is expedient to make provision for the setting up of Special Criminal Courts;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal Courts Act, 194 .

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore only if the Government, by notification in the official Gazette, declares it to be in force in such area and shall cease to be in force when such notification is rescinded:

Provided that any trial or proceeding which was pending at the time of such rescission may be continued and completed as if the provisions of this Act were still in force.

Special Courts.

2. Courts of criminal jurisdiction may be constituted under this Act of the following classes, namely:—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1904 (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose

unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates.

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death, as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates.

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate; and for the purposes

of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeal.

12. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or, in a case tried by summary procedure, passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a

Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with ne attendance of an accused shall not affect his right of eing represented by a pleader at any stage of the trial or eing present in person if he has become capable of ppearing, or appears in Court and undertakes to behave n an orderly manner.

(4) Notwithstanding anything contained in the ode, no finding, sentence or order passed in a trial before Court constituted under this Act, shall be held to be legal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Powers of Special Courts to exclude the public.

21. A Court constituted under this Act may, if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any

Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal Practitioners.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

Exclusion of interference of other Courts.

25. Notwithstanding the provisions of the Code, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court.

Application of ordinary law.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by Special Criminal Courts constituted under this Act.

Repeal and Savings.

27. The Special Criminal Courts (Emergency) Act, 1942, (XVII of 1942), is hereby repealed.

(Sd) N. Madhava Rau
Dewan

*No. R. L. 2573, dated Bangalore, the 6th June 1942.*

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the undermentioned Insurance (Amendment) Bill, together with the statement of objects and reasons.

By Order,

C. NARAYANASWAMY NAIDU,

*Secretary to Government,*

*Law Department.*

## THE INSURANCE (AMENDMENT) BILL.

### Statement of objects and reasons.

In order to regulate and control the insurance business in the Mysore State, an Act on the lines of the Insurance Act in British India was promulgated in Mysore in 1939. Since then two Acts have been passed in British India in the years 1940, 1941 amending the provisions of the British Indian Act to remedy certain defects observed in working the Act.

The notes on clauses appended below indicate the nature of the amendments proposed to be effected by the Bill.

### Notes on clauses.

*Clause* 2 (i) The first amendment makes registration applicable to persons before they became insurers in the technical sense by commencing insurance business. The second removes doubts about validity of policy contracts entered into after the expiry of the period of three months mentioned in section 3 (1) by certain insurers who failed to obtain a certificate of registration in time in the hope of getting exemption under reciprocal arrangement with the Government of India.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. Legis 4-42-1 Dated, Bangalore, 25th July, 1942

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Ordered that the accompanying penalties Enhancement Act, 1942

which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXV of 1942, in the *Mysore Gazette*, for general information.

BVA
27.7.42 — *General Secretary to Government.*
18/VII Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

Copy to the Translation Section

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE

Order No. R1-98 Legis. ~~4-42-1~~ 5-42-1 4-42-1

Dated, Bangalore, 20th July 1942.

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Ordered that the accompanying Penalties Enhancement Act, 1942 which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. ~~XXV~~ XXIV of 1942, in the Mysore Gazette, for general information.

Secretary to Government.
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

Act No ~~XXVI~~ of 1942

# The Penalties Enhancement ~~Bill~~ Act

(assented to on behalf of His Highness the Maharaja on the 7th day of July 1942)

WHEREAS it is expedient to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) Act, 1942.

(2) It extends to the whole of Mysore.

(3) It shall come into force at once; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations, shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping, or with whipping in addition to such rigorous imprisonment.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore, or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 435 or section 436 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping.

Punishment for contravention of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore may, in lieu of any punishment to which he is liable under the said rules, be punished with death, or with whipping.

Punishment for offences under section 376, Indian Penal Code.

6. Whoever commits an offence punishable under section 376 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death.

Punishment for offences under sections 147, 148 and 186, Indian Penal Code.

7. Whoever commits any offence punishable under section 147 or section 148 or section 186 of the Indian Penal Code as in force in Mysore may, in lieu of any punishment to which he is liable under the said Code, be punished with whipping.

Saving.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

Repeal.

9. The Penalties Enhancement (Emergency) Act, 1942, (XVIII of 1942), is hereby repealed.

(Sd) K. Madhava Rao.

NOTIFICATION.

*Order No. Rl.* 97—*Legis.* 3-42-1, *dated Bangalore, the* 22*nd July* 1942.

Ordered that the accompanying Special Criminal Courts Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXIV of 1942, in the *Mysore Gazette*, for general information.

C. NARAYANASWAMY NAIDU,
*Secretary to Government,*
*Law Department.*

ACT NO. XXIV OF 1942.

## THE SPECIAL CRIMINAL COURTS ACT, 1942.

(*Received the assent of His Highness the Maharaja on the seventh day of July 1942.*)

WHEREAS it is expedient to make provision for the tting up of Special Criminal Courts;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Special Criminal ɔurts Act, 1942.

(2) It extends to the whole of Mysore.

(3) It shall come into force in any part of Mysore ıly if the Government, by notification in the official ıazette, declares it to be in force in such area and shall ase to be in force when such notification is rescinded:

Provided that any trial or proceeding which was nding at the time of such rescission may be continued .d completed as if the provisions of this Act were still in rce.

Special Courts.

2. Courts of criminal jurisdiction may be constituted ıder this Act of the following classes, namely:—

(i) Special Judges;
(ii) Special Magistrates;
(iii) Summary Courts.

Special Judges.

3. The Government may appoint to be a Special Judge for such area as it may think fit any person who has acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1904 (hereinafter in this Act referred to as the Code).

Jurisdiction of Special Judges.

4. A Special Judge shall try such offences or classes of offences, or such cases or classes of cases as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Judges.

5. (1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

Sentences by Special Judges.

6. A Special Judge may pass any sentence authorised by law.

Review of convictions.

7. If in any proceedings before a Special Judge—

(*a*) a person convicted is sentenced to death, or to transportation for life, or to imprisonment for a term of seven years or more, or

(*b*) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person nominated in this behalf by the Government, which

person shall be chosen from the Judges of the High Court, and the decision of that person shall be final.

Special Magistrates.

8. Any District Magistrate or Magistrate of the first class who has exercised powers as such for a period of not less than two years may be invested by the Government with the powers of a Special Magistrate under this Act.

Jurisdiction of Special Magistrates

9. A Special Magistrate shall try such offences or classes of offences, or such cases or classes of cases other than offences or cases involving offences, punishable under the Indian Penal Code as in force in Mysore with death, as the Government, or a servant of the Government empowered by the Government in this behalf, may, by general or special order in writing, direct.

Procedure of Special Magistrates

10. (1) In the trial of any case, a Special Magistrate shall follow the procedure laid down in sub-section (1) of section 5 for the trial of cases by a Special Judge.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Magistrate ; and for the purposes of the said provisions, the Special Magistrate shall be deemed to be a Magistrate of the first class.

Sentences by Special Magistrates.

11. (1) A Special Magistrate may pass any sentence authorised by law, except a sentence of death or of transportation or imprisonment exceeding seven years.

(2) If a Special Magistrate is of opinion that an offence under trial by him requires a punishment in excess of that which he is empowered to inflict, he shall stay proceedings and send the case for trial to the Special Judge having jurisdiction in the area, and the Special Judge shall thereupon have jurisdiction to try the case as if it had been made over to him by order in writing made under section 4.

Appeal.

12. (1) Where a Special Magistrate passes a sentence of transportation or imprisonment for a term exceeding two years, an appeal shall lie to the Special Judge having jurisdiction in the area or, if there is no Special Judge for the area, to the Court of Session.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, a Special Judge shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Distribution of cases.

13. If any question arises whether, under any order made under section 4 or section 9, an offence is triable by a Special Judge or a Special Magistrate, the question shall be referred for decision to the authority which made the order and the decision of that authority shall be final.

Summary Courts.

14. The Government may, by general or special order in writing, empower any Magistrate appointed under the provisions of the Code to exercise the powers of a Summary Court in any area specified in the order.

Jurisdiction of Summary Courts.

15. (1) A Summary Court shall have power to try such offences or classes of offences, or such cases or classes of cases as the District Magistrate or a servant of the Government authorised in this behalf by the District Magistrate may by general or special order direct:

Provided that no person shall be tried by a Summary Court for an offence which is punishable with imprisonment for a term exceeding two years, unless it is an offence specified in sub-section (1) of section 260 of the Code.

(2) The District Magistrate may by general or special order give directions as to the distribution among the Summary Courts within his jurisdiction of cases triable by them under sub-section (1).

Procedure of Summary Courts.

16. In the trial of any case a Summary Court, shall, as far as possible, follow the procedure laid down in the Code for the trial of warrant cases, and shall have all the powers conferred by the Code on a Magistrate:

Provided that the Court shall not be required to record more than a memorandum of the evidence or to frame a formal charge:

Provided further that, in the trial of any offence punishable with imprisonment for a term not exceeding one year, the Court may follow the procedure for the summary trial of cases in which an appeal lies, laid down in Chapter XXII of the Code.

Sentences by Summary Courts.

17. Summary Courts may pass any sentence which may be passed by a Magistrate of the first class.

Appeals.

18. (1) If a Summary Court, in a case tried according to the procedure for the trial of warrant cases, passes a sentence of imprisonment for a term exceeding three months or of fine exceeding two hundred rupees or, in a case tried by summary procedure, passes a sentence of imprisonment for a term exceeding one month or of fine exceeding fifty rupees, an appeal shall lie to the Special

Magistrate or other Magistrate of the first class appointed by the District Magistrate of the District in which the Summary Court is situated to hear appeals from that Court.

(2) An appeal under sub-section (1) shall be presented within seven days from the date of the sentence.

(3) In disposing of an appeal under this section, the appellate Court shall follow the same procedure and have the same powers as an appellate Court follows and has under the Code.

Procedure when Summary Court considers case triable by another Court.

19. (1) If a Summary Court is of opinion that the offence disclosed is one which it is not empowered to try, it shall send the case for trial to the Special Judge or Special Magistrate empowered to try the case under this Act or, if no such Court has been so empowered, to an ordinary Criminal Court having jurisdiction.

(2) If a Summary Court is of opinion that an offence which it is empowered to try should be tried by a Court of superior jurisdiction, or that it requires a punishment in excess of that which the Summary Court is empowered to inflict, it shall stay proceedings and report the case to the District Magistrate who may—

(*a*) direct that the case shall be tried by a Summary Court, or

(*b*) send it to a Court constituted under this Act having jurisdiction, or to an ordinary Criminal Court having jurisdiction, or

(*c*) report it for the orders of the Government.

Power of Special Courts to deal with refractory accused.

20. (1) Where an accused, in a trial before a Court constituted under this Act, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial or

being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Court constituted under this Act, shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

Powers of Special Courts to exclude the public.

21. A Court constituted under this Act may, if it thinks fit, order at any stage of a trial that the public generally or any particular persons shall not have access to or be or remain in the room or building used by the Court.

Special rule of evidence.

22. Notwithstanding anything contained in the Indian Evidence Act, 1872, as in force in Mysore, when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Court constituted under this Act, if such person is dead or cannot be found or is incapable of giving evidence.

Special rule of procedure.

23. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Court constituted under this Act, to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Court constituted under this Act may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(*a*) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(*b*) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Legal Practitioners.

24. A Court constituted under this Act shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court such adjournment would cause unreasonable delay in the disposal of the case.

25. Notwithstanding the provisions of the Code, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided in this Act, be no appeal from any order or sentence of a Court constituted under this Act and, save as aforesaid, no Court shall have authority to revise such order or sentence, or to transfer any case from any such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings of any such Court. Exclusion of interference of other Courts.

26. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by Special Criminal Courts constituted under this Act. Application of ordinary law.

27. The Special Criminal Courts (Emergency) Act, 1942 (XVII of 1942), is hereby repealed. Repeal and Savings.

N. MADHAVA RAU,
*Dewan.*

## NOTIFICATION.

*Order No. Rl. 98—Legis. 4-42-1, dated Bangalore, the 22nd July* 1942.

Ordered that the accompanying Penalties (Enhancement) Act, 1942, which received the assent of His Highness the Maharaja, on the 7th day of July 1942, be published as Act No. XXV of 1942, in the *Mysore Gazette*, for general information.

NARAYANASWAMY NAIDU,
*Secretary to Government,*
*Law Department.*

## ACT No. XXV OF 1942.

# THE PENALTIES (ENHANCEMENT) ACT, 1942.

*(Received the assent of His Highness the Maharaja on the seventh day of July 1942.)*

WHEREAS it is expedient to make immediate provision for the enhancement in certain circumstances of the penalties provided by law for the punishment of certain offences;

It is hereby enacted as follows:—

Short title, extent and operation.

1. (1) This Act may be called the Penalties (Enhancement) Act, 1942.
   (2) It extends to the whole of Mysore.
   (3) It shall come into force at once; but sections 3 to 7 inclusive, shall have effect only in pursuance of and in accordance with a notification issued under section 2 and only so long as such notification remains unrescinded.

Power of Government to put the provisions of this Act into effect.

2. The Government may, from time to time, by notification in the official Gazette, declare that sections 3 to 7 inclusive, or any of them, or such provisions of section 4 or section 7 as relate to a particular offence or particular offences therein specified shall have effect throughout Mysore or any specified area of Mysore.

Punishment for theft.

3. Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack or commits theft of any article which has been left exposed or unprotected as a consequence of war operations, shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping, or with whipping in addition to such rigorous imprisonment.

*Explanation.*—In this section "theft" means theft as defined in section 378 of the Indian Penal Code as in force in Mysore and "authorised directions" means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, as applied to Mysore, or made or given by any officer of His Highness the Maharaja's forces acting in the course of his duties.

Punishment for offences under sections 326, 386, 387, 392, 393, 399, 435 and 436, Indian Penal Code.

4. Whoever commits an offence punishable under section 326 or section 386 or section 387 or section 392 or section 393 or section 399 or section 435 or section 436 of the Indian Penal Code as in force in Mysore, may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping or with whipping in addition to any punishment to which he is liable under the said Code.

Punishment for contravention of rule 35, Defence of India Rules.

5. Whoever contravenes any of the provisions of rule 35 of the Defence of India Rules as applied to Mysore, may, in lieu of any punishment to which he is liable under the said rules, be punished with death, orwith whipping or with whipping in addition to any punishment to which he is liable under the said rule.

Punishment for offences under sections 376, 380, 382, 394 or 395 Indian Penal Code.

6. Whoever commits an offence punishable under section 376 or section 380 or section 382 or section 394 or section 395 of the Indian Penal Code as in force in Mysore, may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1903, be punished with death or in the case of an offence punishable under section 380 or section 382 with whipping in addition to any punishment to which he is liable under the said Code.

7. Whoever commits any offence punishable under section 147 or section 148 or section 186 of the Indian Penal Code as in force in Mysore, may, in lieu of or in addition to any punishment to which he is liable under the said Code, be punished with whipping. Punishment for offences under sections 147, 148 and 186, Indian Penal Code.

8. Notwithstanding anything elsewhere contained in any Act, Regulation or Enactment, an offence made punishable with death by this Act shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable. Saving.

9. The Penalties Enhancement (Emergency) Act, 1942 (XVIII of 1942), is hereby repealed. Repeal.

N. MADHAVA RAU,
*Dewan.*